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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,809	09/11/2003	Anthony J. Baerlocher	0112300-1629	7061

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER	
PANDYA, SUNIT	
ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
10/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary	Application No.	Applicant(s)	
	10/660,809	BAERLOCHER, ANTHONY J.	
	Examiner	Art Unit	
	SUNIT PANDYA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-12,14-21,27 and 29-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-12,14-21,27 and 29-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/25/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This action is in response to amendments filed 7/24/2008, the examiner acknowledges that no claim amendments have been filed, and claims 1, 3-12, 14-21, 27 & 29-46 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 9-20, 27-31, 34-36, 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich (US Patent 6,309,300), and further in view of Anderson et al. (US Patent 6,428,412).

Claims 1 & 27: Glavich teaches of a gaming device comprising a display device, an input device (figure 1), a processor configured to operate with the display device and the input device to display base game operable upon a wager (col. 2: 58-67), display an outcome of the base game (col. 3: 33-43), and determine if a triggering event occurred in the outcome of the base game (col. 3: 46-57), and if the trigger even occurred, display plurality of selections associated with a bonus game, and for each picked selection determine the outcome associated with the selection, wherein the selection outcome is based on the amount of wager placed in the base game (figure 1, element 116 & cols. 3-4: 58-28, wherein the selection outcome or the total number of

selections picked by the players is in direct correlation with the wager amount). Glavich also teaches of displaying atleast one award, based on the outcome associated with the picked selections (cols. 4-5: 44-3).

Glavich however fails to teach that player selectable designated selections are based atleast in part of amount of credits wagered on each of the paylines. Glavich teaches of many different embodiments which designates the number of player selectable selections (ex: certain outcome in the base game, playing certain numbers of game rounds, accumulation of game points or credits or just randomly). Anderson et al. teaches of allowing player to wager on each of plurality of paylines (col. 4: 13-20, wherein Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines). It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Glavich to allow player to bet on individual paylines and utilizing that betting method, to further designate the number of player selectable selection, to maintain or even further enhance the level of player excitement offered by the bonus game (col. 1: 40-47)

Claim 40: Glavich and Anderson et al. teaches of a game where the designated number of picks of the selection is based on the number of credit wagered per pay line in the base game (col. 4: 13-20, Anderson).

Claims 3 & 29: Glavich discloses of a game machine having an outcome based on the amount of wager in the base game (cols. 3-4: 58-28).

Claims 4 & 30: Glavich teaches of a game machine wherein the selection outcome includes an activation of a secondary display device (figure 1, #116 & col. 3: 47-53).

Claims 5 & 31: Glavich teaches of a game machine wherein the secondary display includes a symbol generator (col. 4: 48-3 & 5: 59-5).

Claims 9, 16 & 34: Glavich teaches of a gaming machine, which includes a plurality of reels (figure 1, #114).

Claims 10-11, 17, 35-36 & 42: Glavich teaches of a game machine wherein the activation of the secondary display device is made if a designated wager is made in the base game (col. 3: 45-54)

Claims 12 & 39: Glavich teaches of a gaming device comprising a display device, an input device (figure 1), a processor configured to operate with the display device and the input device to display base game operable upon a wager (col. 2: 58-67), display an outcome of the base game (col. 3: 33-43), and determine if a triggering event occurred in the outcome of the base game (col. 3: 46-57), and if the trigger even occurred, display plurality of selections associated with a bonus game, and for each picked selection determine the outcome associated with the selection, wherein the selection outcome is based on the amount of wager placed in the base game (figure 1, element 116 & cols. 3-4: 58-28, wherein the selection outcome or the total number of selections picked by the players is in direct correlation with the wager amount). Glavich also teaches of displaying atleast one award, based on the outcome associated with the picked selections (cols. 4-5: 44-3), and providing a jackpot award, if the symbol generated by the bonus game results in a jackpot (col. 7: 14-22).

Glavich however fails to teach that player selectable designated selections are based atleast in part of amount of credits wagered on each of the paylines. Glavich teaches of many different embodiments which designates the number of player

selectable selections (ex: certain outcome in the base game, playing certain numbers of game rounds, accumulation of game points or credits or just randomly). Anderson et al. teaches of allowing player to wager on each of plurality of paylines (col. 4: 13-20, wherein Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines). It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Glavich to allow player to bet on individual paylines and utilizing that betting method, to further designate the number of player selectable selection, to maintain or even further enhance the level of player excitement offered by the bonus game (col. 1: 40-47)

Claims 14 & 41: Glavich teaches of a game machine, which includes a plurality of awards, wherein the awards are associated with one of plurality of selection outcome (figures 3A-3D).

Claim 15: Glavich teaches of a game machine wherein the player receives only a regular bonus if wagers are less than predetermined (cols. 3-4: 58-43).

Claim 18: Glavich teaches of a game machine wherein a generation of a specific symbol combination would result in a jackpot award (col. 4: 44-3 & col. 7: 14-22).

Claims 19-20 & 43: Glavich teaches of a game machine wherein a modifier is associated with the winnings, wherein the modifier is a multiplier (col. 4: 44-57).

Claims 6-8, 21, 32-33 & 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich and Anderson et al., as applied to claim1-5, 9-20 & 27-46 above, and further in view of Cohen et al. (US Patent 5,231,568).

Claims 6, 7, 21, 32-33 & 44: Combination of Glavich and Anderson et al. substantially teaches all of the limitation as claimed however fails to teach of a symbol generated by a symbol generator is a product award symbol. Cohen teaches of a gaming machine wherein as a prize, the machine permits the patrons to obtain as a prize the product of service whose representations match the game symbols generated (abstract). It would have been obvious to one with ordinary skill in the art at the time of the invention to have modified the gaming system taught by Glavich and Anderson et al. to award product as a prize to promote certain products or to offer more attractive prizes to the players (col. 1: 10-17).

Claim 8: Cohen teaches that if less than the predetermined numbers of product award symbols are generated, a different award is provided to the player (col. 2: 42-55).

Claims 37-38 & 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich and Anderson et al. as applied to claims above, and further in view of Kamille (US Patent 5,855,514).

Claims 37-38 & 45-46: Glavich and Anderson et al. substantially teach of all of the limitations as claimed, however fail to teach of providing the game through a data network such as Internet. Kamille teaches of a gaming machine, which could be a slot or game machine of a computer network video game (e.g. Internet, world wide web etc., col. 5: 35-40). It would be obvious to one with ordinary skill in the art at the time of the invention to have modified gaming system taught by Glavich and Anderson et al., to include a network game, thus giving the player ability to play from different locations.

Examiner's Note

Response to Arguments

Applicant's arguments filed 7/24/08 have been fully considered but they are not persuasive.

The applicant argues that the reference of Glavich does not teach or disclose a designated number of picks of selections being based on the amount of credits wagered on each of plurality of payline. The examiner respectfully disagrees with the applicant. As the examiner had previously stated in the rejection above, Glavich in columns 3, line 65, teaches of selectable items "N" having a direct relations with the amount wagered by the user or player. Further more in column 4, lines 22-28, Glavich teach of different wagering methods that could be used to select N. Anderson et al. teaches of allowing player to wager on each of plurality of paylines in column 4, lines 13-20, Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines. Thus the combination of Glavich and Anderson et al., substantially teach the invention as claimed.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reference of Anderson et al. explicitly states that features which are taught by the reference are designed to maintain and further enhance the level of player excitement offered by the game heretofore known in the art, thus the applicant's statement with regards to generic language is considered to be moot, in view of the reasoning provided above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Consequently, the applicant submitted arguments have been noted but are deemed non-persuasive, and the rejection is maintained.

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as

well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-F 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

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